

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JAMES BARR, individually and on behalf of
all other persons similarly situated,

Plaintiff,

v.

DRIZLY, LLC f/k/a DRIZLY, INC., and
THE DRIZLY GROUP, INC.

Defendant.

Case No. 1:20-cv-11492

The Honorable Leo T. Sorokin

Magistrate Judge Donald L. Cabell

**STIPULATION REGARDING PLAINTIFFS' MOTION
FOR LEAVE TO FILE FIRST AMENDED COMPLAINT AND
ORDER TO SHOW CAUSE**

Defendants Drizly, LLC f/k/a Drizly, Inc. and The Drizly Group, Inc. ("Defendants") and Plaintiff James Barr ("Plaintiff"), having met and conferred regarding Plaintiff's Motion for Leave to File Plaintiffs' First Amended Class Action Complaint (ECF No. 19) (the "Motion"), Defendants' Limited Opposition thereto (ECF No. 22) (the "Opposition"), and the Court's Order to Show Cause (ECF No. 24), hereby stipulate and agree as follows, and request the Court's approval of the same:

1. Following the filing of the Opposition on September 29, 2020, Plaintiffs immediately reached out to Defendants to discuss what appeared to be a misunderstanding among the Parties regarding the filing of an amended complaint consolidating claims against Defendants in this District, about which the Parties had previously met and conferred.

2. The Parties subsequently held a meet-and-confer on September 30, 2020, and

were in the process of discussing the specific issues raised by the Opposition along with Plaintiff Landis' California claims¹ when the Court issued its Order to Show Cause (ECF No. 24) on October 1, 2020.

3. Having now had an opportunity to discuss further, the Parties agree that their misunderstanding was inadvertent and that the issues raised by Order to Show Cause are adequately addressed by the agreed-upon schedule set forth below, such that it is not necessary to burden the Court with further proceedings at this time.

4. WHEREFORE, the parties respectfully request that the Court approve the Parties' requests and agreed schedule, as follows:

- a. Plaintiffs shall withdraw the Motion and First Amended Complaint and Defendant shall withdraw the Opposition;
- b. The Order to Show Cause shall be vacated as moot;
- c. Defendants' obligation to respond to the initial complaint in this action shall be held in abeyance;
- d. Defendants shall have until October 21, 2020 to deliver any response to Plaintiff Landis's pre-suit notice letter under Cal. Civ. Code §§ 1782(a) and 1798.150(b);
- e. Plaintiffs shall file a Renewed Motion to Amend the Complaint consolidating the claims asserted by the *Birdoes* plaintiffs and Plaintiff Landis on or before October 27, 2020;
- f. Defendants shall file any Opposition to Plaintiffs' Renewed Motion to

¹ Plaintiffs mailed a pre-suit notice letter and draft amended complaint reflecting Plaintiff Landis's California claims to Defendants on September 21, 2020. Defendants had not received this letter and complaint, or notice thereof, at the time they filed their Opposition.

Amend the Complaint on or before November 10, 2020;

- g. If the Renewed Motion to Amend the Complaint is opposed, Plaintiffs shall file their reply on or before November 17, 2020;
- h. If the Renewed Motion to Amend the Complaint is granted, Plaintiffs shall file the Amended Complaint within two (2) business days of the Court's Order;
- i. Following the filing of the Amended Complaint, Defendants shall have twenty-one (21) days to answer or file any motions in response;
- j. Plaintiffs shall have twenty-one (21) days to respond to Defendants' filing; and
- k. Defendants shall have fourteen (14) days to reply.

Dated: October 5, 2020

Respectfully Submitted:

<u>By /s/ Jacob A. Walker</u> Jason M. Leviton (BBO #678331) Jacob A. Walker (BBO #688074) BLOCK & LEVITON LLP 260 Franklin Street, Suite 1860 Boston, MA 02110 Tel: (617) 398-5600 jason@blockleviton.com jake@blockleviton.com Christian Levis (admitted <i>pro hac vice</i>) Amanda Fiorilla (admitted <i>pro hac vice</i>) LOWEY DANNENBERG, P.C. 44 South Broadway, Suite 1100 White Plains, NY 10601 Tel: (914) 997-0500 clevis@lowey.com	<u>By: /s/ Kenneth B. Walton</u> Kenneth B. Walton (BBO No. 562174) Ken.Walton@lewisbrisbois.com LEWIS BRISBOIS BISGAARD & SMITH LLP One International Place, 3rd Floor Boston, MA 02110 T: 857-313-3950 F: 857-313-3951 Bart Huff (<i>pro hac vice</i> forthcoming) bart@zwillgen.com ZWILLGEN PLLC 300 N LaSalle St, Suite 4925 Chicago, IL 60654 (312) 685-2278 (telephone)
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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2020, this document was electronically filed with the Clerk of the Court using the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), pursuant to Local Rule 5.4(C).

/s/ Kenneth B. Walton
Kenneth B. Walton